

April 25, 2001

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TL-N-1910-01  
JEBecker, Jr.

Nondocketed Case Advice

██████████-Change of Accounting Method

This memorandum responds to your telephoned request for assistance of March 22, 2001. This memorandum should not be cited as precedent.

ISSUES

1. Can the Internal Revenue Service resolve this case by calculating the taxes, penalties, and interest due for each year in a five-year period and then telescoping the total due into one year for the purposes of assessment and collection?

2. If the answer to question number one is "yes," should the Internal Revenue Service do this where the taxpayer has given the reason for doing so as its desire to avoid having to file a multitude of amended tax returns in several states?

CONCLUSIONS

The following conclusions are based solely upon the facts which you presented to us.

1. Yes, the Internal Revenue Service can resolve this case by making a calculation of the taxes, penalties, and interest due for each year in a five year period and telescoping the grand total into one year for the purposes of assessment and collection.

2. Under the facts presented, there is no compelling reason for the Internal Service to do this or not to do this. However, if the settlement is to be implemented with such terms, a Form 906 (Closing Agreement) must be carefully drafted to limit the settlement to United States income tax purposes only and to specifically state that the agreement does not apply to and is not binding on any other tax jurisdiction.

FACTS

██████████'s (sometimes referred to as "the taxpayer") primary business operation is the leasing of ██████████ equipment. Many of its leases are treated as operating leases for tax purposes. However, for book purposes, many of its leases are required to be treated as finance leases. Thus, certain book-tax adjustments must be made to correctly ascertain its taxable income. The adjustments proposed by the examining agent arise from the fact that ██████████ did not properly account for some of the book-tax adjustments required to convert finance leases into operating leases for the five taxable years ended June 30, ██████████ through June 30, ██████████. The total tax deficiency for those years is about \$██████████.

The taxpayer has agreed to the adjustments made by the agent. However, for the purposes of implementing the settlement, the taxpayer has proposed that the tax, interest, and penalties be computed for each of the five years. Then, it has requested that the grand total for all years be placed in only one year for the purposes of assessment and collection. The taxpayer's reason for the request is that this will prevent it from having to file multiple amended tax returns in the many states in which it does business.

## DISCUSSION

1. Pursuant to I.R.C. §6201, the Internal Revenue Service has the authority to assess the taxes, penalties, and interest for the five taxable years involved in one year. The taxpayer's agreement to such an assessment would be by a waiver (Form 870).

2. But, should the Service make such an agreement? Since the computations which are to be made incorporate the correct amounts of taxes, penalties, and interest due to the Internal Revenue Service, there is no advantage or disadvantage to it in making the agreement. In other words, as we understand it, the effect of the agreement would be revenue neutral and the purpose of the agreement is solely one of administrative convenience. We further assume that the corresponding impact on state tax revenue would likewise be revenue neutral to any affected states; again, the sole purpose of the agreement would be to avoid the multiplicity of amended returns. However, (b)(5)(AC), (b)(7)a

(b)(5)(AC), (b)(7)a

██████████ a closing agreement (Form 906) should be obtained. The closing agreement must be clear that the agreement serves only as an administrative mechanism to effectively collect Federal income taxes for the tax years ████████ to ██████ attributable to a tax accounting change, and that it has no binding effect on any other taxing jurisdiction that would change the amount or tax period of any tax that would otherwise be due to such jurisdiction as a result of the tax accounting change.

As we previously indicated, if a written request for assistance in drafting the Form 906 is made to us, an attorney from this office will be glad to meet with the examining agent to help him do so.

If you have any questions concerning this memorandum, please call Attorney John E. Becker, Jr. at 215-597-3442.

This writing may contain privileged information. Any unauthorized disclosure of this writing may have an adverse effect on privileges, such as the attorney client privilege. If disclosure becomes necessary, please contact this office for our views.

Our advice is subject to the Office of Chief Counsel's ten day post-review procedures. If the Office of Chief Counsel alters or revises our advice they will contact us within ten working days from their receipt of our advice. We recommend that before informing the taxpayer of any decision as to its proposal to telescope the assessment into one year, you wait until that ten day period expires and we confirm that no alterations or revisions were made to our proposed advice.

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